

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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US DISTRICT COURT

★ MAY 19 2016

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SAM LOPEZ, :
: Plaintiff,
: :
-against- :
: :
MR SABOR RESTAURANT & GRILL :
GROUP, :
: :
Defendant. x -----

BROOKLYN OFFICE

MEMORANDUM & ORDER

15 Civ. 2708 (ENV) (CLP)

VITALIANO, D.J.

Plaintiff Sam Lopez filed this action alleging that defendant operated a place of public accommodation that was not compliant with the accessibility requirements of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12181 *et seq.* After plaintiff failed to comply with several court orders and was repeatedly warned that his noncompliance could result in the dismissal of this action, Magistrate Judge Cheryl L. Pollak issued a report and recommendation, dated April 13, 2016 (the “R&R”), recommending that this matter be dismissed for failure to prosecute. With notice given, no party has filed objections to the R&R, and the time in which to do so has expired. For the reasons stated below, the R&R is adopted in its entirety.

Legal Standard

In reviewing the report and recommendation of a magistrate judge, a district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). A district judge is required to “determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3). Where no timely objection has been made, the district court may adopt the report and recommendation, “provided no clear error is apparent from the face of the record.” *Dafeng*

Hengwei Textile Co. v. Aceco Indus. & Commercial Corp., 54 F. Supp. 3d 279, 283 (E.D.N.Y. 2014).

Discussion

The Court has now reviewed the R&R in accordance with the applicable clear error standard of review, and finds it to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court.

Additionally, the Court notes that plaintiff's counsel, Tara Demetriades, has failed to comply with orders and deadlines in three similar ADA cases presently pending before this Court. *See Taylor v. Vera Cruz on Bedford Ave Corp.*, No. 15 Civ. 5863 (ENV) (CLP) (E.D.N.Y. Apr. 6, 2016); *Taylor v. Fultongrand Bar, Inc.*, No. 15 Civ. 5283 (ENV) (CLP) (E.D.N.Y. Feb. 9, 2016); *Cankat v. Dafnon*, No. 15 Civ. 3729 (ENV) (PK) (E.D.N.Y. Dec. 11, 2015). Counsel is warned that the failure to comply with court orders may result in sanctions.

Conclusion

In line with the foregoing, Magistrate Judge Pollak's report and recommendation, dated April 13, 2016, is adopted in its entirety as the opinion of the Court, and this matter is dismissed for failure to prosecute.

Within two days of the entry of this order on the docket, plaintiff's counsel must file an affidavit of service of this order on Lopez.

The Clerk of Court is directed to enter judgment and to close this case.

So Ordered.

Dated: Brooklyn, New York
May 18, 2016

/s/ USDJ ERIC N. VITALIANO
ERIC N. VITALIANO
United States District Judge